JIGSAW24

Version 1.1

Jigsaw24 – Support Contract Terms & Conditions

These conditions together with the provisions of the Agreement or a Scope of Work (SOW) are the only contractual terms upon which Jigsaw Systems Limited (Trading as Jigsaw24) whose trading address is The Old Mill, High Church Street, Nottingham NG7 7JA, and whose registered office is at The Old Mill, High Church Street, New Basford, Nottingham, NG7 7JA (registered with company number 2682904 and registered for VAT purposes with number 610706674) ("Jigsaw24" or "we" or "us") is prepared to deal with its customers in connection with the supply by us of user support, hardware support, equipment support and network support. They shall govern all contracts for the supply of such support to the exclusion of any other contractual terms including any which a customer attempts to introduce.

1. Definitions

All words and expressions undefined in these conditions will have the meaning given to them in the Agreement or SOW. The following words and expressions used in these conditions will have the following meanings:

Agreement: An optionally associated agreement schedule taking the place of the SOW in forming part of the Contract.

Business hours: For the purposes of user support synonymous with Working Hours.

Contract: The contract for the provision by us of user support, hardware support, equipment support or network support formed by the Customer signing the Agreement or SOW which contract is governed by these conditions and the provisions of the Agreement or SOW.

Equipment: Each item of equipment listed in the Equipment List but excluding, unless otherwise agreed in writing with us, any software, removable media or consumable items used in connection with the Equipment.

Equipment List: A list of equipment supported.

Pre-Agreement Defects: Any defects in the Equipment (which as at the Start Date is not brand new and/or not under manufacturer's warranty) notified to the Customer prior to the Start Date.

Remote Server Support: In respect of the Support, the services provided by us by remotely accessing the Customer's server or systems.

Statement of Work (SOW): The associated SOW forming part of the Contract in the absence of an Agreement.

Specification: The description of the Support appended to the SOW or the Agreement.

User List: A list of users supported.

Working Hours: Our working hours, namely the hours between 8:30 am and 6:00 pm (UK time) daily excluding Saturdays, Sundays and Bank, Public and Statutory Holidays in England and Wales.

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2. Commencement and Duration

The Contract shall (once the Agreement or SOW has been signed by the Customer) come into effect on the Start Date and subject to these conditions will continue in force for the period set out in the Agreement or SOW.

3. All Support contracts

3.1 In consideration of the payment of the charges in the associated Agreement or SOW we agree to provide the Support in accordance with the Specification and these conditions.

3.2 Where we have agreed with the Customer in writing to provide support services in respect of software, the terms of this support shall be governed by this Contract, subject to any special conditions set out in the Agreement or SOW.

3.3 Any support services over and above those referred to in condition 3.1, and over and above those conditions 4.2, 5.3 and 9 where these optional services are included in the Contract and specified in the associated Agreement or SOW, shall be:

3.3.1 supplied to the Customer at our sole discretion at our standard charging rates as current from time to time;

3.3.2 invoiced in the manner specified in the Agreement or SOW or, where not specified, in such manner determined by us; and

3.3.3 payable upon receipt of our invoice within 30 days of the issue date for the same.

3.4 Unless specified otherwise in the associated Agreement or SOW, stated response times are calculated in Working Hours from the time that we receive notification from the Customer of any defect in the Equipment. We will keep a record of the time that we receive such notification and such record will be accepted by the Customer as conclusive proof of the time of such notification.

4. Preventive and Emergency Hardware Maintenance

4.1 This is an optional service component and is not included in all agreements and SOWs. If it is included as a component of the Specification in the accompanying Agreement or SOW, then the following Terms and Conditions under clause 4 apply.

4.2 In consideration of the payment of the maintenance charges set out in any Equipment List (the "Charges") we agree to provide preventive and emergency maintenance of the Equipment (the "Support") in accordance with the Specification and these conditions.

4.3 Payment of the Charges covers the provision by us of labour, replacement and loaned parts and all costs necessary for carrying out the Support.

4.4 Should the Customer purchase any additional equipment then we may extend the Support to such additional items upon payment of an additional charge for those additional products commensurate to the additional services which we shall have to supply as a result of such additional products being used by the Customer.

4.5 The Customer may only request removal of Equipment from any Equipment List upon expiry of the Initial Period. The Customer shall notify us in writing and Support will no longer be provided in respect of this Equipment.

4.6 We may review and increase or decrease the Charges on each anniversary of the Start Date.

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5. Emergency Onsite Maintenance

5.1 This is an optional service component and is not included in all agreements and SOWs. If it is included as a component of the Specification in the accompanying Agreement or SOW, then the following Terms and Conditions under clause 5 apply.

5.2 Where Emergency Onsite Maintenance is included in the Agreement or SOW, we shall use all reasonable endeavours to ensure that an engineer arrives at the Customer Location within the appropriate response time set out in the Specification.

5.3 In consideration of the payment of the maintenance charges set out in any Equipment List (the "**Charges**") we agree to provide preventive and emergency maintenance of the Equipment (the "**Support**") in accordance with the Specification and these conditions.

5.4 The Support shall comprise:

5.4.1 using reasonable endeavours to identify, diagnose and attempt to resolve defects in the Equipment;

5.4.2 where hardware cover is purchased and a replacement part will, in our reasonable opinion, remedy such a defect and a part of the same or similar specification to the part to be replaced is in our then available stock, the provision and fitting such replacement part; and

5.4.3 whilst we are complying with clause 5.4.1, loaning replacement equipment of the same or similar specification to that which we are attempting to repair provided that such replacement equipment is in our then available stock.

5.5 If under clause 5.4, replacement parts are fitted by us, such replacement parts shall become the property of the Customer at no additional cost and any parts removed under clause 5.4 shall become our property once the same have been removed.

5.6 Emergency maintenance will only be carried out during Working Hours unless otherwise agreed. If any such maintenance is carried on outside Working Hours, the provision of such maintenance shall be subject to the availability of qualified engineers and the Customer shall pay our then current man-hour rate provided that any such charges shall be for a minimum of two hours per call per man. The time to be charged will include the necessary travel time to and from the Customer Location.

6. Customer obligations

6.1 During the continuance of the Contract, the Customer shall:

6.1.1 provide us with full and safe access to the Equipment, devices and network links in connection with which Support or other services to be provided by us is to be provided;

6.1.2 ensure in the interests of health and safety that our personnel or sub-contractors, upon or prior to entering the Customer's premises, are made familiar with the Customer's premises and safety procedures and have access, at all times while on those premises, to a member of the Customer's staff familiar with the Customer's premises and safety procedures;

6.1.3 make available to us free of charge all facilities and services reasonably required by us to enable us to provide the Support;

6.1.4 be responsible for the correct operation and use of the Equipment, devices, software and network links in material accordance with relevant user documentation and shall at all times comply with our and the manufacturer's reasonable recommendations and advice for the use of the Equipment, devices, software and network links; and

6.1.5 where an Equipment List has been completed, be responsible for promptly reporting to us in writing all defects in the Equipment which become apparent to it.

6.1.6 Where an Equipment List has been completed, endeavour to ensure that proper environmental conditions are maintained for the Equipment as specified by the manufacturer and industry best practice and shall maintain in good condition the hardware, cables, fittings and electricity supply associated with the systems while ensuring the Equipment is cared for and operated in accordance with manufacturer's recommendations.

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7. Limitations to the scope of our Support

7.1 We shall be under no liability to:

7.1.1 install, relocate or upgrade the Equipment or any part of it, unless specified otherwise in the associated Agreement or SOW.

7.1.2 Install, transfer, upgrade or reconfigure software unless this is expressly agreed within the Agreement or SOW.

7.1.3 provide, repair or replace consumable items for the Equipment including without limitation ink, batteries, magnetic tape media, disk packs, cartridges, typeheads or drums.

7.1.4 carry out any adjustment or operation to or setting of the Equipment or software which is described in the relevant user's manual and regarded by the manufacturer of the Equipment or software as a user function unless this is expressly agreed within the Agreement or SOW.

7.1.5 repair or replace any damaged or defective removable media on the Equipment.

7.1.6 provide Support in respect of any faults, defects, damage or loss arising directly or indirectly from:

7.1.6.1 accidental or malicious damage to, theft of or other misuse of the Equipment or software

7.1.6.2 power failure or fluctuation, lightning, strikes or transportation of equipment;

7.1.6.3 any breach by the Customer of the terms of the Contract;

7.1.6.4 the use of the Equipment or software other than in accordance with relevant user manuals;

7.1.6.5 operator error or, unless the software is included in the Specification, a failure or error in operational software;

7.1.6.6 any failure by the Customer to copy data or provide restorable back-up and/or security copies of data processed or stored on the Equipment; or

7.1.6.7 any modifications or adjustments (or any attempts thereat) carried out to the Equipment or any part of it by any person other than us or our sub-contractors.

7.1.7 provide Support in respect of any Pre-Agreement Defect.

7.2 We will not be held responsible for any data corruption or loss, howsoever caused. Should any such data loss occur, we will make reasonable efforts to recover secured data only, but not for re-keying of data lost which has not been secured on restorable tape or disk. If 3rd party specialist data recovery services are required then it is the customer's responsibility to cover the cost for this.

7.3 When supplying the Remote Support:

7.3.1 the Customer shall allow us access (whether through VPN access or otherwise) to its server, devices or Equipment in order to provide the services and we shall not be liable for any delay or failure to perform the Remote Support if, for whatever reason, we are unable to access such server, devices or Equipment;

7.3.2 the Customer acknowledges that we shall have access to the relevant user's computer desktop and other information during the course of the Remote Support and, whilst we will comply with clause 7.4, below, the Customer shall indemnify us in respect of any claims, costs or damages incurred from the provision of the Remote Support in accordance with the terms of the Contract;

7.3.3 the Customer must ensure that it has backed up any and all data which we may come into contact with.

7.3.4 The customer must ensure that it has encrypted any and all data which we may come into contact with.

7.4 Both we and the Customer shall treat as confidential all information obtained from the other pursuant to or in contemplation of the Contract and shall not disclose such information to any person (except to its own employees and, in our case, its sub-contractors and then only to those employees or sub-contractors who need to know the same) without the other's prior written consent. This obligation shall not, however, extend to any information which was rightfully in the possession of the receiving party prior to the commencement of negotiations leading to the Contract, which is already public knowledge or becomes so at a future date otherwise than as the result of a breach of this clause 7.4 or which is trivial or obvious.

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7.5 We shall comply with all applicable data protection laws and regulations in respect of any personal data (as such expression is defined in the Data Protection Act 1998) controlled or processed by us in connection with the provision of the Support and any other service provided by us under the Contract

7.6 When supplying Software Support

7.6.1 We retain the right to decide the appropriate course of action for each incident and will follow the necessary troubleshooting steps to diagnose and then resolve the incident.

7.6.2 Depending upon the nature of the incident, we may have to impose a workaround to resolve the incident as opposed to a fix. Any workaround may be temporary prior to a more permanent solution being instigated or permanent if the customer decides not to proceed with a permanent fix. A workaround may be of a technical nature or may involve changing a manual business process performed by the Customer

7.6.3 We will always aim to return the affected software or operating system to an acceptable operational state, however depending on the nature of the problem this may not be possible or may require changes to the software by the manufacturer.

8. Mature Equipment and software

8.1 When supplying support for Equipment or software the Customer acknowledges that the Equipment or software may in time reach the point at which a major overhaul is required to ensure its continued maintainability. Such major overhaul (as opposed to continuing maintenance) is not within the scope of Support provided under this Contract. Accordingly if in our reasonable opinion the Equipment or software shall require such an overhaul then we shall notify the Customer in writing and provide a quotation for carrying out such overhaul. If the Customer does not within 28 days authorise the overhaul in writing, we may at any time after the expiration of that 28 days by notice in writing to the Customer vary the Contract by withdrawing the Equipment concerned from the Equipment List, or by withdrawing support for the software from the Specification, or by charging an additional service charge for continued maintenance of that Equipment or software at a rate to be determined by us.

8.2 When supplying support for Equipment the Customer acknowledges that the Equipment or software may in time reach the point at which the Equipment is beyond economic repair. Examples of this would be:

8.2.1 Where spare parts are no longer available from the manufacturer

8.2.2 Where the product in the opinion of Jigsaw24 has become unserviceable, including the circumstance where it has reached the end of its manufacturer's stated life. In these circumstances we would notify the customer in writing and provide a quotation to refurbish or replace the product. If the Customer does not within 28 days authorise the overhaul in writing, we may at any time after the expiration of that 28 days by notice in writing to the Customer vary the Contract by withdrawing the Equipment concerned from the Equipment List or by charging an additional service charge for continued maintenance of that Equipment at a rate to be determined by us.

9. Repair Specifications

9.1 Where Repairs are included in the Agreement or SOW, we shall use all reasonable endeavours to ensure that an engineer arrives at the Customer Location within the appropriate response time set out in the Specification.

9.2 All repairs of Equipment shall be carried out in such a manner as to meet the manufacturer's available technical specification, wherever possible.

9.3 Repairs shall only be carried out in respect of Equipment that has become unserviceable due to defects recognised by the manufacturer as a fault, or as an alternative, where we deem the Equipment to have such a fault.

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10. Payment

10.1 The maintenance charge set out in the SOW shall be invoiced by us and paid by the Customer in advance of the Start Date. All sums due under the Contract shall be paid without any deduction or set off.

10.2 If any payment due under this Contract is not made by its due date then we may without prejudice to any other of our rights and remedies do any of the following:

10.2.1 charge interest on the unpaid sum (whether before or after judgement) at the statutory rate of interest payable on late payments from time to time, such interest to accrue on a daily basis from the due date for payment until the date payment is made in full; and/or

10.2.2 suspend the Support and all other services to be provided under the Contract until such a time as all sums due from the Customer to us (including interest) shall have been paid; and/or

10.2.3 exercise a lien over all property of the Customer in its possession for any unpaid sums and interest thereon; and/or

10.2.4 determine the Contract by notice in writing to the Customer.

11. Determination

11.1 We may terminate the Contract immediately by giving written notice to the Customer if the Customer:

11.1.1 is in material breach of the Contract and such breach, if capable of remedy, is not remedied within 30 days of written notice of the material breach to the party in breach; or

11.1.2 shall have a receiver, administrative receiver or administrator appointed over all or any part of its assets or undertaking or shall enter into any arrangement with its creditors or pass a resolution for its winding up or shall take or suffer any analogous action (except for the purpose of solvent amalgamation or reconstruction).

11.2 Termination howsoever occasioned shall not affect the accrued rights or liabilities of either party nor shall it affect the coming into or continuance in force of any provision of the Contract which is expressly or by implication intended to come into or continue in force on or after such termination.

12. Care of and Access to the Equipment

12.1 When supplying Support or maintenance of Equipment, no persons other than our employees or sub-contractors shall be allowed by the Customer to service, maintenance or repair or attempt to maintain/repair the Equipment save for those named members of the Customer's staff which we have approved in writing may carry out such routine maintenance and cleaning of the Equipment as we may specify.

12.2 The Customer shall ensure that all operators and managers of the Equipment are properly trained and that the Equipment is used only in accordance with the manufacturer's recommendations in respect of environment, media, ancillary equipment and operating procedures. The Customer has those matters under its control and accordingly the Company shall not be liable to provide Support where any defect has arisen through failure to observe such recommendations or through continued use of the Equipment after the Customer becomes aware of the defect or of a defect in any part of a system of which the Equipment forms a part.

13. Liability

13.1 Subject to the limitations upon its liabilities set out in this clause 13, we warrant to the Customer that we will perform the Support with reasonable care and skill. The Customer shall give notice to us as soon as it is reasonably able upon becoming aware of a breach of this warranty and subject to the Customer complying with this obligation and providing (where possible) a documented example of the relevant defect or failure, we shall remedy any breach of such warranty by the provision of remedial services free of charge. We shall have no liability or obligation under the said warranty or obligation other than to remedy breaches of the same in accordance with this clause.

13.2 Subject to clause 13.1, all conditions, warranties, terms and undertakings, express or implied, statutory or otherwise in respect of the provision of the Support or any other services under the Contract are excluded to the fullest extent permitted by law.

13.3 This clause 13 states our only liability to the Customer under or in connection with the Contract.

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13.4 Without prejudice to clause 13.6, we will not be liable to the Customer by way of representation (unless fraudulent), common law duty or under any express or implied term of the Contract for:

13.4.1 any indirect, special or consequential loss or damage or loss of profits (whether caused by our negligence or that of our employees agents or otherwise) arising in connection with the Support or any other services provided to you in connection with the Contract, or

13.4.2 any loss or retrieval of data, it being the Customer's responsibility to keep adequate back-up copies of data and programs held or used by the Customer or on its behalf.

13.5 Where not already defined in the Agreement, our entire liability under or in connection with the Contract shall not exceed one and a half times the Charges for the previous 12 months.

13.6 Notwithstanding any other term of these conditions our liability to Customer for death or personal injury resulting from our negligence or that of our employees, agents or subcontractors is not limited save that this clause 13.6 shall not confer a right or remedy on the Customer to which it would not otherwise be entitled.

14. General

14.1 We shall not be liable to the Customer or be deemed to be in breach of contract by reason of any delay in performing, or any failure to perform any of our obligations under the Contract if the delay or failure was due to any cause beyond our reasonable control including but not limited to industrial action, war, fire, prohibition or enactment of any kind or any act or omission of the other party.

14.2 Paragraph headings used in these conditions are for convenience only and are not intended to affect the interpretation of this Agreement. Unless the context requires otherwise, the singular shall include the plural and vice versa. References to any statute in these conditions shall include any amendment, variation or replacement to the same.

14.3 The Contract shall be binding upon and endure to the benefit of the parties and their legal successors but shall not be assignable by the Customer without our prior written consent. We may license or sub-contract all or any part of its obligations under the Contract freely without the consent of the Customer.

14.4 No waiver by us of any breach of the Contract by the Customer shall be considered as a waiver of any subsequent breach of the same or any other provision.

14.5 If any provision of these conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these conditions and the remainder of the provision in question shall not be affected thereby.

14.6 The Contract shall be governed by the laws of England and the Customer agrees to submit any dispute arising in connection with it to the non-exclusive jurisdiction of the English courts.

14.7 The terms of the Contract constitute the entire agreement between the parties relating to its subject matter and supersedes all prior proposals, arrangements and understandings, whether oral or written. The provisions of The Contracts (Rights of Third Parties) Act 1999 are expressly excluded from the Contract.

14.8 No variation or addition to the terms of the Contract shall be binding upon us unless agreed in writing by one of our directors.